

2011-329-C
2012-253C

Jocelyn.Boyd

From: Ronald Kuzon [rkuzon@hotmail.com]
Sent: Tuesday, October 02, 2012 2:28 PM
To: Jocelyn.Boyd; McDaniel, James; Norman Klugman; Warren Feldman
Subject: FW: South Carolina Bond Requirement - Regulation 103-607
Attachments: Exhibit JMM-1.pdf

239621
239622

Dear Ms. Boyd: The following e-mail was sent to me by Jim McDaniel regarding notification to us that our failure to post a bond as required by your Document NO. 4138 under Statutory Authority 1976 Code Section 58-3-140 puts into jeopardy our right to continue to provide telephone service in South Carolina. I explained to him that we had never received any notice of any bond requirement nor notice of any hearing. Apparently, all information and notices were going to our outside regulatory accountant which were not being forwarded to us. We have since replaced this vendor. However, because time is of the essence to be in compliance, we are requesting from the Commission an additional 60 days to be in compliance. We will be seeking a waiver of the regulation of the statutory amount required for bonding and are requesting that the amount of bond that we would have to post would be determined by the formula set forth in the Commission Directive under Order No. 2012-175. In that vein, we would be posting a bond in the amount of \$18,000, given that we have 330 customers generating \$9000 a month in revenue. Please let me know if you are in agreement with how the formula was applied and if you require any more information on our part.

Ronald Kuzon
General Counsel
Covista Communications, Inc.
212 201 2911 (Office)
914 414 6692 (Cell)

From: jmcdanie@regstaff.sc.gov
To: rkuzon@covista.com
CC: rkuzon@hotmail.com
Date: Tue, 2 Oct 2012 11:29:40 -0400
Subject: South Carolina Bond Requirement - Regulation 103-607

Here are copies of the notifications which went out concerning the Bond Requirement. Also, since we had not heard anything from Covista, I think that we may have tried to contact Ms. DeRoche by telephone just before the hearing on the Rule to Show Cause.

For some smaller carriers, the amount of the bond outlined in the Regulation created a hardship. The Commission established an alternative formula method for calculating the amount of bond in Order 2012-175. Here is a link to the Order:
<http://dms.psc.sc.gov/pdf/orders/11F1AE8D-155D-2817-10834E6EE5160B34.pdf>

At this point, I'm thinking, if Covista provides residential services I would request additional time to comply and if necessary request a waiver of the regulation related to the amount of the bond. Not sure about the number of residential customer which Covista serves so I guessing the formula method may be best way to determine the bond, but you will need to ask the Commission for waiver of the regulation amounts.

You need to communicate with the Commission today or tomorrow.

Commission Contact:

Jocelyn Boyd, Chief Clerk / Administrator
Public Service Commission of South Carolina
Post Office Drawer 11649

RECEIVED

PSC SC
MAIL / DMS

Columbia, South Carolina 29211

Here's a link to letter filed on behalf of another carrier.

<http://dms.psc.sc.gov/pdf/matters/3792D239-155D-2817-10AECBF13B1A2E61.pdf>

PLEASE ACKNOWLEDGE RECEIPT. If you have additional questions, please advise.

Thank you, Jim McDaniel

C. DUKES SCOTT
EXECUTIVE DIRECTOR

1401 Main Street, Suite 900
Columbia, SC 29201



Phone: (803) 737-0800
Fax: (803) 737-0801

DAN E. ARNETT
CHIEF OF STAFF

DAWN M. HIPP
DIRECTOR

TELECOMMUNICATIONS, TRANSPORTATION, WATER/WASTEWATER

August 8, 2011

*****REVISED REGULATION NOTICE****

Subject: 26 S.C. Code Ann. Regs. 103-607 (Supp. 2011)
Telephone Utilities Providing Retail Residential Local Exchange Services

To: All Telecommunications Companies Operating in the State of South Carolina

Per the recently revised regulation 26 S.C. Code Ann. Regs. 103-607 (Supp. 2011), all telephone utilities that provide retail residential local exchange service that have not invested at least five million dollars in telecommunications facilities in South Carolina will be required to file a bond or other security mechanism with the Public Service Commission of South Carolina ("PSC"). A copy of the bond should also be provided to the South Carolina Office of Regulatory Staff ("ORS"). This new regulation became effective on June 24, 2011.

In order to demonstrate compliance to the ORS and PSC, each company must either:

- 1) Verify in writing that it does not provide residential local exchange service; or
- 2) Verify that the Company individually or together with its affiliates has invested at least five (5) million dollars in telecommunications facilities in South Carolina; or
- 3) Apply for and receive a waiver from the Public Service Commission; or
- 4) File a bond or other security mechanism consistent with Regulation 103-607.

Each Telecommunications Company must demonstrate compliance with the new regulation by December 31, 2011. A copy of Regulation 103-607 is attached for your convenience.

Please contact me via e-mail or phone to discuss the regulation or requirements for maintaining compliance.

Sincerely,

Jim McDaniel
Program Manager
South Carolina Office of Regulatory Staff
803-737-0812
jmcdanie@regstaff.sc.gov

Enclosure

Document No. 4138

PUBLIC SERVICE COMMISSION

CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140

As published in the South Carolina State Register Vol. 35, Issue 6

June 24, 2011

103-607. Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms

Text:

103-607. Bonds or Other Security Mechanisms.

This regulation applies to telephone utilities who provide retail residential local exchange services and who individually or together with their affiliates, have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. The commission may waive this requirement upon petition by the telephone utility if the telephone utility provides evidence of financial stability as deemed appropriate by the commission. This regulation does not apply to Commercial Mobile Radio Services. The commission shall determine the type and the amount of bond or other security mechanism to be filed by the carrier with the commission and the ORS. The commission may order the carrier to file a performance bond or post an irrevocable letter of credit or certificate of deposit. In determining the amount of the performance bond, irrevocable letter of credit, or certificate of deposit, the commission may use, at a minimum, any commercially reasonable, acceptable method, including the following criteria: number of customers, retail price for service, and financial resources of the carrier.

a. **Performance Bond.** Performance bonds must be issued by an A-grade insurer acceptable to the commission and must be posted with the commission and a copy provided to the ORS. However, the amount of the bond shall be no less than \$100,000. An updated bond shall be filed with the commission and a copy provided to the ORS annually.

b. **Irrevocable Letter of Credit.** An irrevocable letter of credit shall be issued by a financial institution acceptable to the commission. The amount of the irrevocable letter of credit shall be determined by the commission; however, the amount of the letter of credit shall be no less than \$100,000. An updated irrevocable letter of credit shall be filed with the commission and a copy provided to the ORS annually.

c. **Certificate of Deposit.** The certificate of deposit shall be issued by a financial institution acceptable to the commission and shall be no less than \$50,000. An updated certificate of deposit shall be filed with the commission and a copy provided to the ORS annually.

Forfeiture of Bond or Other Security Mechanism

The commission, after notice and hearing, may order all or part of any bond or other security forfeited upon finding that the telephone utility has abandoned service to customers.

C. DUKES SCOTT
EXECUTIVE DIRECTOR

1401 Main Street, Suite 900
Columbia, SC 29201



Phone: (803) 737-0800
Fax: (803) 737-0801

DAN F. ARNETT
CHIEF OF STAFF

DAWN M. HIPP
DIRECTOR

TELECOMMUNICATIONS, TRANSPORTATION, WATER/WASTEWATER

March 15, 2012

NOTICE OF NON-COMPLIANCE

Subject: 26 S.C. Code Ann. Regs. 103-607 (Supp. 2011)
Telephone Utilities Providing Retail Residential Local Exchange Services

To: Telephone Utilities Operating in South Carolina

On August 8, 2011, the South Carolina Office of Regulatory Staff ("ORS") notified all telephone carriers holding Certificates of Public Convenience and Necessity to provide telecommunications in South Carolina that revised regulations had become effective on June 24, 2011. Revised regulation 26 S.C. Code Ann. Regs. 103-607 (Supp. 2011) requires all telephone utilities that provide retail residential local exchange service that have not invested at least five million dollars in telecommunications facilities in South Carolina to file a bond or other security mechanism with the Public Service Commission of South Carolina ("PSC").

The ORS records indicate your company is out of compliance with the PSC bond requirement. Companies were required to file a bond by no later than December 31, 2011. In order to maintain a compliant operating certificate, your company must:

- 1) Verify in writing that it does not provide residential local exchange service; or
- 2) Verify that the Company individually or together with its affiliates has invested at least five (5) million dollars in telecommunications facilities in South Carolina; or
- 3) File a bond or other security mechanism consistent with Regulation 103-607.

This information is due to ORS and the PSC by no later than **April 15, 2012**. Failure to comply with this PSC regulation will result in revocation of your operating certificate.

Please contact me if you have any questions related to the bond requirement.

Sincerely,

Jim McDaniel

Program Manager

South Carolina Office of Regulatory Staff

803-737-0812

jmcdanie@regstaff.sc.gov